

Self-government Charters

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Objectives

- Explain Local Government Charters
- Explain Self-governing Powers
- Explain the steps for implementing Senate Bill No. 8, creating Regional Resource Authorities

What is a Charter?

- A charter is the local government equivalent of a state or national constitution
- Approved by the voters within its jurisdiction
- Defines local government's
 - Powers
 - Rights
 - Structures
 - Duties
 - Privileges
 - Limitations
- Written Plan of Government

Montana Charters

- 129 Montana Municipalities
 - 32 Operate with Charters
- 56 Montana Counties
 - 3 Operate with Charters

Written Plan of Government

- Montana Charters **must** include:
 - An elected legislative body of qualified electors
 - Number of members
 - Terms of office
 - Elections are partisan or non-partisan
 - Districted or at-large
 - Grounds for removal
 - Method of filling vacancies

Written Plan of Government

- Montana Charters **must** include:
 - An elected or appointed chief-executive
 - Term of office if elected or at the pleasure of the governing body if appointed
 - Powers and duties of the chief-executive
 - Grounds for removal from office
- Could provide for a plural executive drawn from the legislative body

Written Plan of Government

- A charter **may** specify:
 - Any additional officers, departments, boards, commissions, agencies as desired
 - Any limitations or prohibitions on the governing body's exercise of self-governing powers (such as taxation limits) which are automatically acquired upon voter approval of the charter
 - Other provision as long as they are not contrary to the constitution or law

Written Plan of Government

- A local charter **may not** include:
 - Provisions conflicting with state law establishing prohibitions or limitations on the powers of self-governing units of local government
 - Provisions establishing elections, initiatives or referendum procedures
 - Provisions establishing or modifying local court systems

Written Plan of Government

- Charters may only be amended with voter approval, as required by state law.
- Every charter must adopt **self-governing powers**
- However, every community that has **self-governing powers** does not need to adopt a Charter

General Governing Powers

- Dillon's Rule
- 1872 Judge John F. Dillon, Iowa
 - Municipal corporation can exercise the following powers and no others:
 - Those granted in express words
 - Those necessarily or fairly implied in or incident to the powers expressly granted
 - Those essential to the declared objectives and purposes of the corporation – not simply convenient, but indispensable

General Governing Powers

- 1887 Supreme Court of the Montana Territory held that municipal corporations had no inherent right of local self-government

General Governing Powers

- Montana's legislature delegates authority to local governments to perform any governmental service or to alter their governmental structures and organizations.
 - 2003 session, 89 statutes dealing with local government were amended or added to dealing with Title 7, MCA's 881 pages.

Self-governing Powers

- As set forth in Section 6, Article XI of the 1972 Montana Constitution
 - **Section 6. Self-government powers.** A local government unit adopting a self-government charter ***may exercise any power not prohibited by this constitution, law, or charter.*** This grant of self-government powers may be extended to other local government units through optional forms of government provided for in section 3.

Examples of Self-Governing Powers

- Providing additional services not permitted by the legislature
- Lawfully acquire and operate utilities (gas, electric) within and outside the boundaries of its jurisdiction
- Greater authority to dispose of public lands
- Implement local development fees

Article XI, Montana Constitution

- Section 3. Forms of government.
- Section 4. General powers.
- Section 5. Self-government charters.
- Section 6. Self-government powers.

Questions?

Senate Bill No. 8

- Regional Resource Authority
- Collaboration & Coordination
 - Management of Water Resources
 - Agriculture
 - Recreation
 - Municipal Uses

If Passes And Governor Signs....

- A diverse group of stakeholders will create the RRA petition
 - Proposed RRA Boundaries
 - Proposed name of the Authority
 - Proposed Charter
 - Request for referendum on the question of creating the Authority and its powers

RRA Petition

- Must be signed by 10% of the registered voters within the boundary of the proposed RRA
 - One petition (10% registered voters) for each County within proposed area
 - Each County publishes the text of the petition, date, time and location for public hearing on the petition

RRA Public Hearing

- Each County holds a public hearing
- Commissioners shall determine whether the petition complies with the petition requirements

RRA Election

- Each County's Commission shall give notice of an election
 - Election is held with a regular or primary election
- The County containing the largest % of the RRA territory shall administer the election and canvass the returns

RRA Resolution

- Majority of "YES" votes within the proposed boundaries creates the RRA
- County Commission in the County that administered the election declare the RRA duly organized by resolution
- Commissioners will file the resolution with the Secretary of State and County Clerk and Recorder

RRA Certificate of Incorporation

- Secretary of State issues a Certificate of Incorporation and it is filed with the Clerk and Recorder in every County in which the RRA is located

Questions?